

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ANDRE WADE,

Petitioner,

v.

**WARDEN, BELMONT CORRECTIONAL
INSTITUTION,**

Respondent.

CASE NO. 2:17-CV-1101

JUDGE ALGENON L. MARBLEY

Chief Magistrate Judge Elizabeth P. Deavers

ORDER

On August 14, 2018, the Magistrate Judge issued a *Report and Recommendation*, recommending that the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be dismissed. (ECF No. 14.) The Court granted Petitioner an extension of time until September 21, 2018, to file objections to the Magistrate Judge's *Report and Recommendation*. (ECF No. 16.) However, no objections were filed, and on November 30, 2018, *Judgment* was entered dismissing this action.

On December 27, 2018, Petitioner filed a *Motion for Reconsideration* pursuant to Rule 59(e) of the Federal Rules of Civil Procedure. (ECF No. 19.) He requests reconsideration of the final *Judgment* of dismissal of this action without consideration of his objections. He states that, on September 10, 2108, he timely mailed his objections for filing. He has submitted a copy of his prison account statement, indicating that on that same date, the prison charged him \$1.42 in postage for mail sent to the Clerk of this Court. (ECF No. 19, PAGEID # 883.)

Accordingly, and accepting Petitioner's representation as true that he timely submitted his objections with prison officials for mailing, and that through no fault of his own they were

lost or not filed in a timely manner, Petitioner's *Motion for Reconsideration* (ECF No. 19) hereby is **GRANTED**.

The *Order* adopting the *Report and Recommendation* (ECF No. 17) and final *Judgment* of dismissal of this case (ECF No. 18) without consideration of Petitioner's objections are **VACATED** to permit the filing of objections.

Petitioner may file any objections to the Magistrate Judge's *Report and Recommendation* within twenty-one (21) days.

IT IS SO ORDERED.

s/Algenon L. Marbley
ALGENON L. MARBLEY
UNITED STATES DISTRICT COURT

DATED: January 14, 2019